

By. Manuel Salgado Jr.

S.B. No. 1726

A BILL TO BE ENTITLED

AN ACT

relating to the financing of water and sewer programs in disadvantaged areas in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 15, Water Code, is amended by adding Section 15.009 to read as follows:

Sec. 15.009. ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR ECONOMICALLY DISTRESSED AREAS. Notwithstanding other provisions of this chapter, Chapter 16, or Chapter 17, a county with a population of three million or more or a county with a population of 350,000 or more that is adjacent to a county with a population of three million or more is eligible for any financial assistance available under this chapter, Chapter 16, or Chapter 17 for providing water and sewer services, connections to water and sewer services, and any other assistance related to water and sewer services in economically distressed areas of the county.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

BILL ANALYSIS

Senate Research Center

S.B. 1726
By: Gallegos
Natural Resources
4/14/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, Harris County and adjacent counties have economically distressed areas that are severely lacking in adequate water and sewer services. Most of these residential users are dependant on water wells which are contaminated. Septic systems are leeching into the water table, adding to further contamination of drinking water.

As proposed, S.B. 1726 provides for these areas to be eligible for financial assistance under Chapters 15, 16, and 17, Water Code.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 15, Water Code, by adding Section 15.009, as follows:

Sec. 15.009. ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR ECONOMICALLY DISTRESSED AREAS. Provides that, notwithstanding other provisions of this chapter (Texas Water Assistance Program), Chapter 16 (Provisions Generally Applicable to Water Development), or Chapter 17 (Public Funding), a county with a population of three million or more or a county with a population of 350,000 or more that is adjacent to a county with a population of three million or more, is eligible for any financial assistance available under this chapter, Chapter 16, or Chapter 17, for providing water and sewer services, connections to water and sewer services, and any other assistance related to water and sewer services in economically distressed areas of the county.

SECTION 2. Effective date: upon passage or September 1, 2005.

By: Gallegos S.B. No. 1726
(In the Senate - Filed March 11, 2005; March 30, 2005, read first time and referred to Committee on Natural Resources; April 29, 2005, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 0; April 29, 2005, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 1726

By: Barrientos

A BILL TO BE ENTITLED
AN ACT

relating to the financing of water and sewer programs in disadvantaged areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 17, Water Code, is amended by adding Subchapter K-1 to read as follows:

SUBCHAPTER K-1. STATEWIDE ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS

Sec. 17.941. DEFINITIONS. In this subchapter:

(1) "Economically distressed area" means an area in this state in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rule;

(B) financial resources are inadequate to provide water supply and sewer services that will satisfy those needs; and

(C) an established residential subdivision was located on June 1, 2005, as determined by the board.

(2) "Financial assistance" means the funds provided by the board to political subdivisions for water supply or sewer services under this subchapter.

(3) "Political subdivision" means a county, a municipality, a nonprofit water supply corporation created and operating under Chapter 67, or a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(4) "Sewer services" and "sewer facilities" mean treatment works or individual, on-site, or cluster treatment systems such as septic tanks and include drainage facilities and other improvements for proper functioning of the sewer services and other facilities.

Sec. 17.942. FINANCIAL ASSISTANCE. The economically distressed areas program account may be used by the board to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply and sewer services, including providing money from the account for the state's participation in federal programs that provide assistance to political subdivisions. Money from the proceeds of bonds issued under the authority of Section 49-d-7(b) or 49-d-8, Article III, Texas Constitution, may not be used to provide financial assistance under this subchapter.

Sec. 17.943. APPLICATION FOR FINANCIAL ASSISTANCE. (a) A political subdivision may apply to the board for financial assistance under this subchapter by submitting an application together with a plan for providing water supply or sewer services to an economically distressed area.

(b) The application and plan must include:

(1) the name of the political subdivision and its principal officers;

(2) a citation of the law under which the political subdivision was created and operates;

(3) a description of the existing water supply and sewer facilities located in the area to be served by the proposed project and, along with the description, a statement prepared and certified by an engineer registered to practice in this state that

FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

(SB) SCR SJR SR HB HCR HJR 172e
By Galleas
(Author/Senate Sponsor)
4/29/05
(date)

We, your Committee on NATURAL RESOURCES, to which was referred the attached measure,
have on 4/26/05 (date of hearing), had the same under consideration and I am instructed to report it
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed
() the caption remained the same as original measure
☒ the caption changed with adoption of the substitute
() do pass as substituted, and be ordered not printed
☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes () no

A revised fiscal note was requested. ☒ yes () no

An actuarial analysis was requested. () yes ☒ no

Considered by subcommittee. () yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Armbrister, Chair	<input checked="" type="checkbox"/>			
Senator Jackson, Vice-Chair			<input checked="" type="checkbox"/>	
Senator Barrientos	<input checked="" type="checkbox"/>			
Senator Duncan			<input checked="" type="checkbox"/>	
Senator Estes	<input checked="" type="checkbox"/>			
Senator Fraser	<input checked="" type="checkbox"/>			
Senator Hinojosa	<input checked="" type="checkbox"/>			
Senator Lindsay	<input checked="" type="checkbox"/>			
Senator Madla			<input checked="" type="checkbox"/>	
Senator Seliger	<input checked="" type="checkbox"/>			
Senator Staples	<input checked="" type="checkbox"/>			
TOTAL VOTES	8	0	3	0

COMMITTEE ACTION

(S260) Considered in public hearing

(S270) Testimony taken

Kelly C. Millett
COMMITTEE CLERK

Ken [Signature]
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Retain one copy of this form for Committee files

WITNESS LIST

SB 1726

SENATE COMMITTEE REPORT

Natural Resources

April 14, 2005 - 1:30PM

ON: Schwartz, Suzonne (Texas Water Development Board), Austin, TX

Registering, but not testifying:

For: Bean, Scott (ALDINE), HOUSTON, TX

BILL ANALYSIS

Senate Research Center
79R12206 RMB-D

C.S.S.B. 1726
By: Gallegos
Natural Resources
4/18/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, Harris County and adjacent counties have economically distressed areas that are severely lacking in adequate water and sewer services. Most of these residential users are dependant on water wells which are contaminated. Septic systems are leeching into the water table, adding to further contamination of drinking water.

C.S.S.B. 1726 provides for these areas to be eligible for financial assistance under Chapters 15, 16, and 17, Water Code.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to a county described by Section 17.923(3) (a county with a population of three million or more or a county that has a population of 350,000 and is adjacent to a county with a population of three million or more) in SECTION 2 (Section 16.343, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 15, Water Code, by adding Section 15.009, as follows:

Sec. 15.009. ELIGIBILITY FOR FINANCIAL ASSISTANCE FOR ECONOMICALLY DISTRESSED AREAS. Provides that, notwithstanding other provisions of this chapter (Texas Water Assistance Program), Chapter 16 (Provisions Generally Applicable to Water Development), or Chapter 17 (Public Funding), a county described by Section 17.923(3) is eligible for any financial assistance available under this chapter, Chapter 16, or Chapter 17, for providing water and sewer services, connections to water and sewer services, and any other assistance related to water and sewer services in economically distressed areas of the county.

SECTION 2. Amends Sections 16.343(f) and (g), Water Code, to authorize a county described by Section 17.923(3) to adopt the model rules (created by the Texas Water Development Board for safe and sanitary water supply and sewer services in residential areas). Authorizes a county described by Section 17.923(3) to limit the applicability of the model rules to the portion of the county for which the application (for financial assistance) is made.

SECTION 3. Amends Section 17.923, Water Code, by adding Subdivision (3) to provide that a county with a population of three million or more or a county that has a population of 350,000 or more and is adjacent to a county with a population of three million or more is eligible for financial assistance under this subchapter (Assistance to Economically Distressed Areas for Water Supply and Sewer Service Projects).

SECTION 4. Effective date: upon passage or September 1, 2005.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 19, 2005

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB1726 by Gallegos (Relating to the financing of water and sewer programs in disadvantaged areas in certain counties.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would add Harris County and Fort Bend County to the list of counties eligible to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

Local Government Impact

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, WK, TL, DLBa

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 13, 2005

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB1726 by Gallegos (Relating to the financing of water and sewer programs in disadvantaged areas in certain counties.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would add Harris County and Fort Bend County to the list of counties eligible to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

Local Government Impact

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, WK, TL, DLBa

CORRECTED PRINTING

By: Gallegos. S.B. No. 1726
(In the Senate - Filed March 11, 2005; March 30, 2005, read first time and referred to Committee on Natural Resources; April 29, 2005, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 0; April 29, 2005, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 1726 By: Barrientos

A BILL TO BE ENTITLED AN ACT

relating to the financing of water and sewer programs in disadvantaged areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 17, Water Code, is amended by adding Subchapter K-1 to read as follows:

SUBCHAPTER K-1. STATEWIDE ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS

Sec. 17.941. DEFINITIONS. In this subchapter:

(1) "Economically distressed area" means an area in this state in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rule;

(B) financial resources are inadequate to provide water supply and sewer services that will satisfy those needs; and

(C) an established residential subdivision was located on June 1, 2005, as determined by the board.

(2) "Financial assistance" means the funds provided by the board to political subdivisions for water supply or sewer services under this subchapter.

(3) "Political subdivision" means a county, a municipality, a nonprofit water supply corporation created and operating under Chapter 67, or a district or authority created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(4) "Sewer services" and "sewer facilities" mean treatment works or individual, on-site, or cluster treatment systems such as septic tanks and include drainage facilities and other improvements for proper functioning of the sewer services and other facilities.

Sec. 17.942. FINANCIAL ASSISTANCE. The economically distressed areas program account may be used by the board to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of water supply and sewer services, including providing money from the account for the state's participation in federal programs that provide assistance to political subdivisions. Money from the proceeds of bonds issued under the authority of Section 49-d-7(b) or 49-d-8, Article III, Texas Constitution, may not be used to provide financial assistance under this subchapter.

Sec. 17.943. APPLICATION FOR FINANCIAL ASSISTANCE. (a) A political subdivision may apply to the board for financial assistance under this subchapter by submitting an application together with a plan for providing water supply or sewer services to an economically distressed area.

(b) The application and plan must include:

(1) the name of the political subdivision and its principal officers;

(2) a citation of the law under which the political subdivision was created and operates;

(3) a description of the existing water supply and sewer facilities located in the area to be served by the proposed project and, along with the description, a statement prepared and certified by an engineer registered to practice in this state that

the facilities do not meet minimum state standards;

(4) information identifying the median household income for the area to be served by the proposed project;

(5) a project plan prepared and certified by an engineer registered to practice in this state that:

(A) describes the proposed planning, design, and construction activities necessary for providing water supply and sewer services that meet minimum state standards; and

(B) identifies the households to which the services will be provided;

(6) a budget that estimates the total cost of providing water supply and sewer services to the economically distressed area and a proposed schedule and method for repayment of financial assistance consistent with board rules and guidelines; and

(7) the total amount of assistance requested from the economically distressed areas program account.

(c) A program of water conservation for the more effective use of water is required for the approval of an application for financial assistance under this section in the same manner as such a program is required for the approval of an application for financial assistance under Section 17.125.

(d) Before considering the application, the board may require the applicant to:

(1) participate with the board in reviewing the applicant's managerial, financial, or technical capabilities to operate the system for which assistance is being requested;

(2) provide a written determination by the commission of the applicant's managerial, financial, and technical capabilities to operate the system for which assistance is being requested;

(3) request that the comptroller perform a financial management review of the applicant's current operations and, if the comptroller is available to perform the review, provide the board with the results of the review; or

(4) provide any other information required by the board or the executive administrator.

Sec. 17.944. CONSIDERATIONS IN REVIEWING APPLICATION.

(a) In reviewing an application for financial assistance, the board shall consider:

(1) the need of the economically distressed area to be served by the water supply or sewer services in relation to the need of other political subdivisions requiring financial assistance under this subchapter and the relative costs and benefits of all applications;

(2) the availability of revenue or alternative financial assistance for the area served by the project, from all sources, for the payment of the cost of the proposed project;

(3) the financing of the proposed water supply or sewer project, including consideration of:

(A) the budget and repayment schedule submitted under Section 17.943(b)(6);

(B) other items included in the application relating to financing; and

(C) other financial information and data available to the board; and

(4) the feasibility of achieving cost savings by providing a regional facility for water supply or wastewater service and the feasibility of financing the project by using money from the economically distressed areas program account or any other available financial assistance.

(b) At the time an application for financial assistance is considered, the board must also find that the area to be served by a proposed project has a median household income of not more than 75 percent of the median state household income for the most recent year for which statistics are available.

Sec. 17.945. APPROVAL OR DISAPPROVAL OF APPLICATION. After considering the matters described by Section 17.944, the board by resolution shall:

(1) approve the plan and application as submitted;

(2) approve the plan and application subject to the requirements identified by the board or commission for the applicant to obtain the managerial, financial, and technical capabilities to operate the system and any other requirements, including training under Subchapter M, the board considers appropriate;

(3) deny the application and identify the requirements or remedial steps the applicant must complete before the applicant may be reconsidered for financial assistance;

(4) if the board finds that the applicant will be unable to obtain the managerial, financial, or technical capabilities to build and operate a system, deny the application and issue a determination that a service provider other than the applicant is necessary or appropriate to undertake the proposed project; or

(5) deny the application.

Sec. 17.946. FINDINGS REGARDING PERMITS. (a) The board may not release money for the construction of that portion of a project that proposes surface water or groundwater development until the executive administrator makes a written finding:

(1) that an applicant proposing surface water development has the necessary water right authorizing it to appropriate and use the water that the water supply project will provide; or

(2) that an applicant proposing groundwater development has the right to use water that the water supply project will provide.

(b) The board may release money for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs before making the finding required under Subsection (a) if the executive administrator determines that a reasonable expectation exists that the finding will be made before the release of funds for construction.

(c) If an applicant includes a proposal for treatment works, the board may not deliver money for the treatment works until the applicant has received a permit for construction and operation of the treatment works and approval of the plans and specifications from the commission, unless such a permit is not required by the commission.

Sec. 17.947. METHOD OF FINANCIAL ASSISTANCE. (a) The board may provide financial assistance to political subdivisions under this subchapter by using money in the economically distressed areas program account to purchase political subdivision bonds.

(b) The board may make financial assistance available to political subdivisions in any other manner that it considers feasible, including:

(1) contracts or agreements with a political subdivision for acceptance of financial assistance that establish any repayment based on the political subdivision's ability to repay the assistance and that establish requirements for acceptance of the assistance; or

(2) contracts or agreements for providing financial assistance in any federal or federally assisted project or program.

Sec. 17.948. TERMS OF FINANCIAL ASSISTANCE. (a) The board may use money in the economically distressed areas program account to provide financial assistance under this subchapter to a political subdivision to be repaid in the form, manner, and time provided by board rules and in the agreement between the board and the political subdivision, taking into consideration the information provided under Section 17.943.

(b) In providing financial assistance to an applicant under this subchapter, the board may not provide to the applicant financial assistance for which repayment is not required in an amount that exceeds 50 percent of the total amount of the financial assistance plus interest on any amount that must be repaid, unless the Department of State Health Services issues a finding that a nuisance dangerous to the public health and safety exists resulting

from water supply and sanitation problems in the area to be served by the proposed project. The board and the applicant shall provide to the department information necessary to make a determination, and the board and the department may enter into memoranda of understanding necessary to carry out this subsection.

(c) The total amount of financial assistance provided by the board to political subdivisions under this subchapter from state-issued bonds for which repayment is not required may not exceed at any time 90 percent of the total principal amount of issued and unissued bonds authorized for purposes of this subchapter.

(d) In determining the amount and form of financial assistance and the amount and form of repayment, if any, the board shall consider:

(1) rates, fees, and charges that the average customer to be served by the project will be able to pay based on a comparison of what other families of similar income who are similarly situated pay for comparable services;

(2) sources of funding available to the political subdivision from federal and private money and from other state money;

(3) any local money of the political subdivision to be served by the project if the economically distressed area to be served by the board's financial assistance is within the boundary of the political subdivision; and

(4) the just, fair, and reasonable charges for water and wastewater service as provided by this code.

(e) In making its determination under Subsection (d)(1), the board may consider any study, survey, data, criteria, or standard developed or prepared by any federal, state, or local agency, private foundation, banking or financial institution, or other reliable source of statistical or financial data or information.

(f) The board may provide financial assistance money under this subchapter for treatment works only if the board determines that it is not feasible in the area covered by the application to use septic tanks as the method for providing sewer services under the applicant's plan.

SECTION 2. Subsection (c), Section 17.958, Water Code, is amended to read as follows:

(c) Money on deposit in the economically distressed areas program account may be used by the board for purposes provided by Subchapter K or K-1 in the manner that the board determines necessary for the administration of the fund.

SECTION 3. Subsection (i), Section 15.407, and Subsection (b), Section 15.974, Water Code, are repealed.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

* * * * *

FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

(SB) SCR SJR SR HB HCR HJR 1720
By Galleads
(Author/Senate Sponsor)
4/29/05
(date)

We, your Committee on NATURAL RESOURCES, to which was referred the attached measure,
have on 4/20/05 (date of hearing), had the same under consideration and I am instructed to report it
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed
☐ the caption remained the same as original measure
☒ the caption changed with adoption of the substitute

☐ do pass as substituted, and be ordered not printed

☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Armbrister, Chair	<input checked="" type="checkbox"/>			
Senator Jackson, Vice-Chair			<input checked="" type="checkbox"/>	
Senator Barrientos	<input checked="" type="checkbox"/>			
Senator Duncan			<input checked="" type="checkbox"/>	
Senator Estes	<input checked="" type="checkbox"/>			
Senator Fraser	<input checked="" type="checkbox"/>			
Senator Hinojosa	<input checked="" type="checkbox"/>			
Senator Lindsay	<input checked="" type="checkbox"/>			
Senator Madla			<input checked="" type="checkbox"/>	
Senator Seliger	<input checked="" type="checkbox"/>			
Senator Staples	<input checked="" type="checkbox"/>			
TOTAL VOTES	8	0	3	0

COMMITTEE ACTION

(S260) Considered in public hearing
(S270) Testimony taken

Kelly C. Millett
COMMITTEE CLERK

Ken [Signature]
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Retain one copy of this form for Committee files

WITNESS LIST

SB 1726

SENATE COMMITTEE REPORT

Natural Resources

April 14, 2005 - 1:30PM

ON: Schwartz, Suzonne (Texas Water Development Board), Austin, TX

Registering, but not testifying:

For: Bean, Scott (ALDINE), HOUSTON, TX

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1726
By: Gallegos
Natural Resources
5/3/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Many areas of the state are economically distressed and need financial assistance in getting water and sewer services to low-income populations. Most of these residential users live in substandard conditions and are dependant on water wells which are or have become contaminated. Septic systems are leaching into the water table, adding to further contamination of the drinking water.

C.S.S.B. 1726 provides for these areas to be eligible for funding under Chapter 17, Water Code.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 17, Water Code, by adding Subchapter K-1, as follows:

SUBCHAPTER K-1. STATEWIDE ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS

Sec. 17.941. DEFINITIONS. Defines "economically distressed area," "financial assistance," "political subdivision," "sewer services," and "sewer facilities."

Sec. 17.942. FINANCIAL ASSISTANCE. Authorizes the economically distressed areas program account to be used by the Texas Water Development Board (board) to provide financial assistance to political subdivisions for purposes related to acquiring, constructing, and improving water supply and sewer services. Prohibits money from the proceeds of bonds issued under the authority of Section 49-d-7(b) or 49-d-8, Article III, Texas Constitution, from being used to provide financial assistance under this subchapter.

Sec. 17.943. APPLICATION FOR FINANCIAL ASSISTANCE. (a) Authorizes a political subdivision to apply to the board for financial assistance under this subchapter by submitting an application together with a plan for providing water supply or sewer services to an economically distressed area.

(b) Sets forth the information and documents the application and plan are required to include.

(c) Provides that a program of water conservation for the more effective use of water is required for the approval of an application for financial assistance under this section in a certain manner.

(d) Authorizes the board, before considering the application, to require the applicant to participate with the board in reviewing the applicant's managerial, financial, or technical capabilities to operate the system for which assistance is being requested; provide written determination by the Texas Commission on Environmental Quality (commission) of the applicant's managerial, financial, and technical capabilities to operate the system; request that the comptroller perform a financial management review of the applicant's current operations and, if the

comptroller is available to perform the review, provide the board with the results of the review; or provide any other information required by the board or the executive administrator.

Sec. 17.944. CONSIDERATIONS IN REVIEWING APPLICATION. (a) Sets forth the factors the board is required to consider in reviewing an application for financial assistance.

(b) Requires the board, at the time an application for financial assistance is considered, to find that the area to be served by a proposed project has a median household income of not more than 75 percent of the median state household income for the most recent year for which statistics are available.

Sec. 17.945. APPROVAL OR DISAPPROVAL OF APPLICATION. Requires the board, after considering the matters described by Section 17.944, by resolution to approve the plan and application as submitted; approve the plan and application as submitted subject to certain requirements identified by the board or commission; deny the application and identify the requirements or remedial steps the applicant must complete to be reconsidered for financial assistance; deny the application if the board finds that the applicant will be unable to obtain the managerial, financial, or technical capabilities to build and operate a system and issue a determination that another service provider is necessary or appropriate to undertake the proposed project; or deny the application.

Sec. 17.946. FINDINGS REGARDING PERMITS. (a) Prohibits the board from releasing money for the portion of the project that proposes surface water or groundwater development until the executive administrator of the board makes certain written findings.

(b) Authorizes the board to release money for the costs of planning, engineering, architectural, legal, title, fiscal, or economic investigation, studies, surveys, or designs before making the written finding if the executive administrator determines that a reasonable expectation exists that the finding will be made before the release of funds for construction.

(c) Prohibits the board, if an applicant includes a proposal for treatment works, from delivering money for the treatment works until the applicant has received a permit for construction and operation of the treatment works and approval of the plans and specifications from the commission, unless such a permit is not required by the commission.

Sec. 17.947. METHOD OF FINANCIAL ASSISTANCE. (a) Authorizes the board to provide financial assistance to political subdivisions under this subchapter by using money in the economically distressed areas program account to purchase political subdivision bonds.

(b) Authorizes the board to make financial assistance available to political subdivisions in any other manner that it considers feasible, including certain specified methods.

Sec. 17.948. TERMS OF FINANCIAL ASSISTANCE. (a) Authorizes the board to use money in the economically distressed areas program account to provide financial assistance under this subchapter to a political subdivision to be repaid in any form, manner, and time provided by board rules and in the agreement between the board and the political subdivision, taking into consideration the information provided under Section 17.943.

(b) Prohibits the board, in providing financial assistance to an applicant under this subchapter, from providing to the applicant financial assistance for which repayment is not required in an amount that exceeds 50 percent of the total amount of the financial assistance plus interest on the amount that must be repaid, and creates an exception if the Department of State Health Services (DSHS)

makes a certain finding. Requires the board and the applicant to provide DSHS information necessary to make a determination. Authorizes the board and DSHS to enter into memoranda of understanding necessary to carry out this subsection.

(c) Prohibits the total amount of financial assistance provided by the board to political subdivisions under this subchapter from state-issued bonds for which repayment is not required from exceeding at any time 90 percent of the total principal amount of issued and unissued bonds authorized for purposes of this subchapter.

(d) Sets forth the factors the board is required to consider, including the rates, fees, and charges that the average customer to be served by the project will be able to pay, in determining the amount and form of financial assistance and the amount and form of repayment.

(e) Authorizes the board, in making its determination of the rates, fees, and charges that the average customer to be served by the project will be able to pay, to consider certain studies, surveys, data, criteria, or standards.

(f) Authorizes the board to provide financial assistance money under this subchapter for treatment works only if the board determines that it is not feasible in the area covered by the application to use septic tanks as the method for providing sewer services under the applicant's plan.

SECTION 2. Amends Section 17.958(c), Water Code, to make a conforming change.

SECTION 3. Repealer: Sections 15.407(i) (Facility Engineering in Economically Distressed Areas) and Section 15.974(b) (Use of Water Infrastructure Fund), Water Code.

SECTION 2. [sic] Effective date: upon passage or September 1, 2005.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 19, 2005

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **SB1726** by Gallegos (Relating to the financing of water and sewer programs in disadvantaged areas in certain counties.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would add Harris County and Fort Bend County to the list of counties eligible to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

Local Government Impact

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, WK, TL, DLBa

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 13, 2005

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB1726 by Gallegos (Relating to the financing of water and sewer programs in disadvantaged areas in certain counties.), **As Introduced**

<p>No significant fiscal implication to the State is anticipated.</p>
--

The bill would add Harris County and Fort Bend County to the list of counties eligible to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

Local Government Impact

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, WK, TL, DLBa

REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR CHRIS HARRIS, CHAIRMAN
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that SB 1726, by Gallegos,
(Bill No.) (Author/Sponsor)

was heard by the Committee on Natural Resources on 4/26,
2005,

and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.

Holly C. Millett
(Clerk of the reporting committee)

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A COMMITTEE PRINTED VERSION OF THE BILL OR RESOLUTION AND SHOULD BE DELIVERED TO THE ADMINISTRATION COMMITTEE OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS AND RESOLUTIONS WILL BE ANNOUNCED ON A REGULAR BASIS.

ADOPTED

31-0
MAY 10 2005

Atty. Gen.
Secretary of the Senate

By: Gallegos

S.B. No. 1726

Substitute the following for S.B. No. 1726:

By: *Barrientos*

C.S.S.B. No. 1726

A BILL TO BE ENTITLED

AN ACT

relating to the financing of water and sewer programs in disadvantaged areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 17, Water Code, is amended by adding Subchapter K-1 to read as follows:

SUBCHAPTER K-1. STATEWIDE ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS

Sec. 17.941. DEFINITIONS. In this subchapter:

(1) "Economically distressed area" means an area in this state in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rule;

(B) financial resources are inadequate to provide water supply and sewer services that will satisfy those needs; and

(C) an established residential subdivision was located on June 1, 2005, as determined by the board.

(2) "Financial assistance" means the funds provided by the board to political subdivisions for water supply or sewer services under this subchapter.

(3) "Political subdivision" means a county, a municipality, a nonprofit water supply corporation created and operating under Chapter 67, or a district or authority created

1 under Section 52, Article III, or Section 59, Article XVI, Texas
2 Constitution.

3 (4) "Sewer services" and "sewer facilities" mean
4 treatment works or individual, on-site, or cluster treatment
5 systems such as septic tanks and include drainage facilities and
6 other improvements for proper functioning of the sewer services and
7 other facilities.

8 Sec. 17.942. FINANCIAL ASSISTANCE. The economically
9 distressed areas program account may be used by the board to provide
10 financial assistance to political subdivisions for the
11 construction, acquisition, or improvement of water supply and sewer
12 services, including providing money from the account for the
13 state's participation in federal programs that provide assistance
14 to political subdivisions. Money from the proceeds of bonds issued
15 under the authority of Section 49-d-7(b) or 49-d-8, Article III,
16 Texas Constitution, may not be used to provide financial assistance
17 under this subchapter.

18 Sec. 17.943. APPLICATION FOR FINANCIAL ASSISTANCE. (a) A
19 political subdivision may apply to the board for financial
20 assistance under this subchapter by submitting an application
21 together with a plan for providing water supply or sewer services to
22 an economically distressed area.

23 (b) The application and plan must include:

24 (1) the name of the political subdivision and its
25 principal officers;

26 (2) a citation of the law under which the political
27 subdivision was created and operates;

1 (3) a description of the existing water supply and
2 sewer facilities located in the area to be served by the proposed
3 project and, along with the description, a statement prepared and
4 certified by an engineer registered to practice in this state that
5 the facilities do not meet minimum state standards;

6 (4) information identifying the median household
7 income for the area to be served by the proposed project;

8 (5) a project plan prepared and certified by an
9 engineer registered to practice in this state that:

10 (A) describes the proposed planning, design, and
11 construction activities necessary for providing water supply and
12 sewer services that meet minimum state standards; and

13 (B) identifies the households to which the
14 services will be provided;

15 (6) a budget that estimates the total cost of
16 providing water supply and sewer services to the economically
17 distressed area and a proposed schedule and method for repayment of
18 financial assistance consistent with board rules and guidelines;
19 and

20 (7) the total amount of assistance requested from the
21 economically distressed areas program account.

22 (c) A program of water conservation for the more effective
23 use of water is required for the approval of an application for
24 financial assistance under this section in the same manner as such a
25 program is required for the approval of an application for
26 financial assistance under Section 17.125.

27 (d) Before considering the application, the board may

1 require the applicant to:

2 (1) participate with the board in reviewing the
3 applicant's managerial, financial, or technical capabilities to
4 operate the system for which assistance is being requested;

5 (2) provide a written determination by the commission
6 of the applicant's managerial, financial, and technical
7 capabilities to operate the system for which assistance is being
8 requested;

9 (3) request that the comptroller perform a financial
10 management review of the applicant's current operations and, if the
11 comptroller is available to perform the review, provide the board
12 with the results of the review; or

13 (4) provide any other information required by the
14 board or the executive administrator.

15 Sec. 17.944. CONSIDERATIONS IN REVIEWING APPLICATION.

16 (a) In reviewing an application for financial assistance, the
17 board shall consider:

18 (1) the need of the economically distressed area to be
19 served by the water supply or sewer services in relation to the need
20 of other political subdivisions requiring financial assistance
21 under this subchapter and the relative costs and benefits of all
22 applications;

23 (2) the availability of revenue or alternative
24 financial assistance for the area served by the project, from all
25 sources, for the payment of the cost of the proposed project;

26 (3) the financing of the proposed water supply or
27 sewer project, including consideration of:

1 (A) the budget and repayment schedule submitted
2 under Section 17.943(b)(6);

3 (B) other items included in the application
4 relating to financing; and

5 (C) other financial information and data
6 available to the board; and

7 (4) the feasibility of achieving cost savings by
8 providing a regional facility for water supply or wastewater
9 service and the feasibility of financing the project by using money
10 from the economically distressed areas program account or any other
11 available financial assistance.

12 (b) At the time an application for financial assistance is
13 considered, the board must also find that the area to be served by a
14 proposed project has a median household income of not more than 75
15 percent of the median state household income for the most recent
16 year for which statistics are available.

17 Sec. 17.945. APPROVAL OR DISAPPROVAL OF APPLICATION. After
18 considering the matters described by Section 17.944, the board by
19 resolution shall:

20 (1) approve the plan and application as submitted;

21 (2) approve the plan and application subject to the
22 requirements identified by the board or commission for the
23 applicant to obtain the managerial, financial, and technical
24 capabilities to operate the system and any other requirements,
25 including training under Subchapter M, the board considers
26 appropriate;

27 (3) deny the application and identify the requirements

1 or remedial steps the applicant must complete before the applicant
2 may be reconsidered for financial assistance;

3 (4) if the board finds that the applicant will be
4 unable to obtain the managerial, financial, or technical
5 capabilities to build and operate a system, deny the application
6 and issue a determination that a service provider other than the
7 applicant is necessary or appropriate to undertake the proposed
8 project; or

9 (5) deny the application.

10 Sec. 17.946. FINDINGS REGARDING PERMITS. (a) The board
11 may not release money for the construction of that portion of a
12 project that proposes surface water or groundwater development
13 until the executive administrator makes a written finding:

14 (1) that an applicant proposing surface water
15 development has the necessary water right authorizing it to
16 appropriate and use the water that the water supply project will
17 provide; or

18 (2) that an applicant proposing groundwater
19 development has the right to use water that the water supply project
20 will provide.

21 (b) The board may release money for the costs of planning,
22 engineering, architectural, legal, title, fiscal, or economic
23 investigation, studies, surveys, or designs before making the
24 finding required under Subsection (a) if the executive
25 administrator determines that a reasonable expectation exists that
26 the finding will be made before the release of funds for
27 construction.

1 (c) If an applicant includes a proposal for treatment works,
2 the board may not deliver money for the treatment works until the
3 applicant has received a permit for construction and operation of
4 the treatment works and approval of the plans and specifications
5 from the commission, unless such a permit is not required by the
6 commission.

7 Sec. 17.947. METHOD OF FINANCIAL ASSISTANCE. (a) The
8 board may provide financial assistance to political subdivisions
9 under this subchapter by using money in the economically distressed
10 areas program account to purchase political subdivision bonds.

11 (b) The board may make financial assistance available to
12 political subdivisions in any other manner that it considers
13 feasible, including:

14 (1) contracts or agreements with a political
15 subdivision for acceptance of financial assistance that establish
16 any repayment based on the political subdivision's ability to repay
17 the assistance and that establish requirements for acceptance of
18 the assistance; or

19 (2) contracts or agreements for providing financial
20 assistance in any federal or federally assisted project or program.

21 Sec. 17.948. TERMS OF FINANCIAL ASSISTANCE. (a) The board
22 may use money in the economically distressed areas program account
23 to provide financial assistance under this subchapter to a
24 political subdivision to be repaid in the form, manner, and time
25 provided by board rules and in the agreement between the board and
26 the political subdivision, taking into consideration the
27 information provided under Section 17.943.

1 (b) In providing financial assistance to an applicant under
2 this subchapter, the board may not provide to the applicant
3 financial assistance for which repayment is not required in an
4 amount that exceeds 50 percent of the total amount of the financial
5 assistance plus interest on any amount that must be repaid, unless
6 the Department of State Health Services issues a finding that a
7 nuisance dangerous to the public health and safety exists resulting
8 from water supply and sanitation problems in the area to be served
9 by the proposed project. The board and the applicant shall provide
10 to the department information necessary to make a determination,
11 and the board and the department may enter into memoranda of
12 understanding necessary to carry out this subsection.

13 (c) The total amount of financial assistance provided by the
14 board to political subdivisions under this subchapter from
15 state-issued bonds for which repayment is not required may not
16 exceed at any time 90 percent of the total principal amount of
17 issued and unissued bonds authorized for purposes of this
18 subchapter.

19 (d) In determining the amount and form of financial
20 assistance and the amount and form of repayment, if any, the board
21 shall consider:

22 (1) rates, fees, and charges that the average customer
23 to be served by the project will be able to pay based on a comparison
24 of what other families of similar income who are similarly situated
25 pay for comparable services;

26 (2) sources of funding available to the political
27 subdivision from federal and private money and from other state

1 money;

2 (3) any local money of the political subdivision to be
3 served by the project if the economically distressed area to be
4 served by the board's financial assistance is within the boundary
5 of the political subdivision; and

6 (4) the just, fair, and reasonable charges for water
7 and wastewater service as provided by this code.

8 (e) In making its determination under Subsection (d)(1),
9 the board may consider any study, survey, data, criteria, or
10 standard developed or prepared by any federal, state, or local
11 agency, private foundation, banking or financial institution, or
12 other reliable source of statistical or financial data or
13 information.

14 (f) The board may provide financial assistance money under
15 this subchapter for treatment works only if the board determines
16 that it is not feasible in the area covered by the application to
17 use septic tanks as the method for providing sewer services under
18 the applicant's plan.

19 SECTION 2. Subsection (c), Section 17.958, Water Code, is
20 amended to read as follows:

21 (c) Money on deposit in the economically distressed areas
22 program account may be used by the board for purposes provided by
23 Subchapter K or K-1 in the manner that the board determines
24 necessary for the administration of the fund.

25 SECTION 3. Subsection (i), Section 15.407, and Subsection
26 (b), Section 15.974, Water Code, are repealed.

27 SECTION 2. This Act takes effect immediately if it receives

1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2005.

By: Gallegos

S.B. No. 1726

A BILL TO BE ENTITLED

AN ACT

relating to the financing of water and sewer programs in disadvantaged areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 17, Water Code, is amended by adding Subchapter K-1 to read as follows:

SUBCHAPTER K-1. STATEWIDE ASSISTANCE TO ECONOMICALLY DISTRESSED AREAS FOR WATER SUPPLY AND SEWER SERVICE PROJECTS

Sec. 17.941. DEFINITIONS. In this subchapter:

(1) "Economically distressed area" means an area in this state in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rule;

(B) financial resources are inadequate to provide water supply and sewer services that will satisfy those needs; and

(C) an established residential subdivision was located on June 1, 2005, as determined by the board.

(2) "Financial assistance" means the funds provided by the board to political subdivisions for water supply or sewer services under this subchapter.

(3) "Political subdivision" means a county, a municipality, a nonprofit water supply corporation created and operating under Chapter 67, or a district or authority created

1 under Section 52, Article III, or Section 59, Article XVI, Texas
2 Constitution.

3 (4) "Sewer services" and "sewer facilities" mean
4 treatment works or individual, on-site, or cluster treatment
5 systems such as septic tanks and include drainage facilities and
6 other improvements for proper functioning of the sewer services and
7 other facilities.

8 Sec. 17.942. FINANCIAL ASSISTANCE. The economically
9 distressed areas program account may be used by the board to provide
10 financial assistance to political subdivisions for the
11 construction, acquisition, or improvement of water supply and sewer
12 services, including providing money from the account for the
13 state's participation in federal programs that provide assistance
14 to political subdivisions. Money from the proceeds of bonds issued
15 under the authority of Section 49-d-7(b) or 49-d-8, Article III,
16 Texas Constitution, may not be used to provide financial assistance
17 under this subchapter.

18 Sec. 17.943. APPLICATION FOR FINANCIAL ASSISTANCE. (a) A
19 political subdivision may apply to the board for financial
20 assistance under this subchapter by submitting an application
21 together with a plan for providing water supply or sewer services to
22 an economically distressed area.

23 (b) The application and plan must include:

24 (1) the name of the political subdivision and its
25 principal officers;

26 (2) a citation of the law under which the political
27 subdivision was created and operates;

1 (3) a description of the existing water supply and
2 sewer facilities located in the area to be served by the proposed
3 project and, along with the description, a statement prepared and
4 certified by an engineer registered to practice in this state that
5 the facilities do not meet minimum state standards;

6 (4) information identifying the median household
7 income for the area to be served by the proposed project;

8 (5) a project plan prepared and certified by an
9 engineer registered to practice in this state that:

10 (A) describes the proposed planning, design, and
11 construction activities necessary for providing water supply and
12 sewer services that meet minimum state standards; and

13 (B) identifies the households to which the
14 services will be provided;

15 (6) a budget that estimates the total cost of
16 providing water supply and sewer services to the economically
17 distressed area and a proposed schedule and method for repayment of
18 financial assistance consistent with board rules and guidelines;
19 and

20 (7) the total amount of assistance requested from the
21 economically distressed areas program account.

22 (c) A program of water conservation for the more effective
23 use of water is required for the approval of an application for
24 financial assistance under this section in the same manner as such a
25 program is required for the approval of an application for
26 financial assistance under Section 17.125.

27 (d) Before considering the application, the board may

1 require the applicant to:

2 (1) participate with the board in reviewing the
3 applicant's managerial, financial, or technical capabilities to
4 operate the system for which assistance is being requested;

5 (2) provide a written determination by the commission
6 of the applicant's managerial, financial, and technical
7 capabilities to operate the system for which assistance is being
8 requested;

9 (3) request that the comptroller perform a financial
10 management review of the applicant's current operations and, if the
11 comptroller is available to perform the review, provide the board
12 with the results of the review; or

13 (4) provide any other information required by the
14 board or the executive administrator.

15 Sec. 17.944. CONSIDERATIONS IN REVIEWING APPLICATION.

16 (a) In reviewing an application for financial assistance, the
17 board shall consider:

18 (1) the need of the economically distressed area to be
19 served by the water supply or sewer services in relation to the need
20 of other political subdivisions requiring financial assistance
21 under this subchapter and the relative costs and benefits of all
22 applications;

23 (2) the availability of revenue or alternative
24 financial assistance for the area served by the project, from all
25 sources, for the payment of the cost of the proposed project;

26 (3) the financing of the proposed water supply or
27 sewer project, including consideration of:

1 (A) the budget and repayment schedule submitted
2 under Section 17.943(b)(6);

3 (B) other items included in the application
4 relating to financing; and

5 (C) other financial information and data
6 available to the board; and

7 (4) the feasibility of achieving cost savings by
8 providing a regional facility for water supply or wastewater
9 service and the feasibility of financing the project by using money
10 from the economically distressed areas program account or any other
11 available financial assistance.

12 (b) At the time an application for financial assistance is
13 considered, the board must also find that the area to be served by a
14 proposed project has a median household income of not more than 75
15 percent of the median state household income for the most recent
16 year for which statistics are available.

17 Sec. 17.945. APPROVAL OR DISAPPROVAL OF APPLICATION. After
18 considering the matters described by Section 17.944, the board by
19 resolution shall:

20 (1) approve the plan and application as submitted;

21 (2) approve the plan and application subject to the
22 requirements identified by the board or commission for the
23 applicant to obtain the managerial, financial, and technical
24 capabilities to operate the system and any other requirements,
25 including training under Subchapter M, the board considers
26 appropriate;

27 (3) deny the application and identify the requirements

1 or remedial steps the applicant must complete before the applicant
2 may be reconsidered for financial assistance;

3 (4) if the board finds that the applicant will be
4 unable to obtain the managerial, financial, or technical
5 capabilities to build and operate a system, deny the application
6 and issue a determination that a service provider other than the
7 applicant is necessary or appropriate to undertake the proposed
8 project; or

9 (5) deny the application.

10 Sec. 17.946. FINDINGS REGARDING PERMITS. (a) The board
11 may not release money for the construction of that portion of a
12 project that proposes surface water or groundwater development
13 until the executive administrator makes a written finding:

14 (1) that an applicant proposing surface water
15 development has the necessary water right authorizing it to
16 appropriate and use the water that the water supply project will
17 provide; or

18 (2) that an applicant proposing groundwater
19 development has the right to use water that the water supply project
20 will provide.

21 (b) The board may release money for the costs of planning,
22 engineering, architectural, legal, title, fiscal, or economic
23 investigation, studies, surveys, or designs before making the
24 finding required under Subsection (a) if the executive
25 administrator determines that a reasonable expectation exists that
26 the finding will be made before the release of funds for
27 construction.

1 (c) If an applicant includes a proposal for treatment works,
2 the board may not deliver money for the treatment works until the
3 applicant has received a permit for construction and operation of
4 the treatment works and approval of the plans and specifications
5 from the commission, unless such a permit is not required by the
6 commission.

7 Sec. 17.947. METHOD OF FINANCIAL ASSISTANCE. (a) The
8 board may provide financial assistance to political subdivisions
9 under this subchapter by using money in the economically distressed
10 areas program account to purchase political subdivision bonds.

11 (b) The board may make financial assistance available to
12 political subdivisions in any other manner that it considers
13 feasible, including:

14 (1) contracts or agreements with a political
15 subdivision for acceptance of financial assistance that establish
16 any repayment based on the political subdivision's ability to repay
17 the assistance and that establish requirements for acceptance of
18 the assistance; or

19 (2) contracts or agreements for providing financial
20 assistance in any federal or federally assisted project or program.

21 Sec. 17.948. TERMS OF FINANCIAL ASSISTANCE. (a) The board
22 may use money in the economically distressed areas program account
23 to provide financial assistance under this subchapter to a
24 political subdivision to be repaid in the form, manner, and time
25 provided by board rules and in the agreement between the board and
26 the political subdivision, taking into consideration the
27 information provided under Section 17.943.

1 (b) In providing financial assistance to an applicant under
2 this subchapter, the board may not provide to the applicant
3 financial assistance for which repayment is not required in an
4 amount that exceeds 50 percent of the total amount of the financial
5 assistance plus interest on any amount that must be repaid, unless
6 the Department of State Health Services issues a finding that a
7 nuisance dangerous to the public health and safety exists resulting
8 from water supply and sanitation problems in the area to be served
9 by the proposed project. The board and the applicant shall provide
10 to the department information necessary to make a determination,
11 and the board and the department may enter into memoranda of
12 understanding necessary to carry out this subsection.

13 (c) The total amount of financial assistance provided by the
14 board to political subdivisions under this subchapter from
15 state-issued bonds for which repayment is not required may not
16 exceed at any time 90 percent of the total principal amount of
17 issued and unissued bonds authorized for purposes of this
18 subchapter.

19 (d) In determining the amount and form of financial
20 assistance and the amount and form of repayment, if any, the board
21 shall consider:

22 (1) rates, fees, and charges that the average customer
23 to be served by the project will be able to pay based on a comparison
24 of what other families of similar income who are similarly situated
25 pay for comparable services;

26 (2) sources of funding available to the political
27 subdivision from federal and private money and from other state

1 money;

2 (3) any local money of the political subdivision to be
3 served by the project if the economically distressed area to be
4 served by the board's financial assistance is within the boundary
5 of the political subdivision; and

6 (4) the just, fair, and reasonable charges for water
7 and wastewater service as provided by this code.

8 (e) In making its determination under Subsection (d)(1),
9 the board may consider any study, survey, data, criteria, or
10 standard developed or prepared by any federal, state, or local
11 agency, private foundation, banking or financial institution, or
12 other reliable source of statistical or financial data or
13 information.

14 (f) The board may provide financial assistance money under
15 this subchapter for treatment works only if the board determines
16 that it is not feasible in the area covered by the application to
17 use septic tanks as the method for providing sewer services under
18 the applicant's plan.

19 SECTION 2. Subsection (c), Section 17.958, Water Code, is
20 amended to read as follows:

21 (c) Money on deposit in the economically distressed areas
22 program account may be used by the board for purposes provided by
23 Subchapter K or K-1 in the manner that the board determines
24 necessary for the administration of the fund.

25 SECTION 3. Subsection (i), Section 15.407, and Subsection
26 (b), Section 15.974, Water Code, are repealed.

27 SECTION 2. This Act takes effect immediately if it receives

S.B. No. 1726

1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2005.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 19, 2005

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB1726 by Gallegos (Relating to the financing of water and sewer programs in disadvantaged areas in certain counties.), **Committee Report 1st House, Substituted**

<p>No significant fiscal implication to the State is anticipated.</p>
--

The bill would add Harris County and Fort Bend County to the list of counties eligible to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

The Water Development Board could experience a minor increase in workload associated with the review of additional applications; however, this increase is not expected to be significant.

Local Government Impact

If Harris County and Fort Bend County were to apply for financial assistance, they would incur minor costs associated with the application process. If the counties were to receive financial assistance, they would experience a revenue gain for use in providing water and sewer services. The revenue gain would depend on the amount of financial assistance made available. Other counties might experience a negative fiscal impact by having to compete against an additional two counties for the limited amount of assistance dollars.

Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, WK, TL, DLBa

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 13, 2005

TO: Honorable Kenneth Armbrister, Chair, Senate Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB1726 by Gallegos (Relating to the financing of water and sewer programs in disadvantaged areas in certain counties.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would add Harris County and Fort Bend County to the list of counties eligible to receive financial assistance under the Economically Distressed Areas Program (EDAP) for providing water and sewer services. The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005.

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Source Agencies: 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, WK, TL, DLBa

S.B. No. 1726

By Mardi Allgood Jr.

A BILL TO BE ENTITLED

AN ACT:

relating to the financing of water and sewer programs in disadvantaged areas in certain counties

MAR 11 2005

Filed with the Secretary of the Senate

NATURAL RESOURCES

~~MAR 30 2005~~

Read and referred to Committee on _____

Reported favorably _____

APR 29 2005

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

MAY 10 2005

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by:

{ unanimous consent

_____ yeas, _____ nays

MAY 10 2005

Read second time, _____, and ordered engrossed by:

{ ~~unanimous consent~~
a viva voce vote

_____ yeas, _____ nays

MAY 10 2005

Senate and Constitutional 3 Day Rule suspended by a vote of 31 yeas, 0 nays.

MAY 10 2005

Read third time, _____, and passed by:

{ A viva voce vote

31 yeas, 0 nays

Latey Spaw
SECRETARY OF THE SENATE

OTHER ACTION:

May 10, 2005

Engrossed

May 10, 2005

Sent to House

Engrossing Clerk

Mardi Allgood

MAY 10 2005

Received from the Senate

MAY 10 2005

Read first time and referred to Committee on

Natural Resources

Reported _____ favorably (as amended) (as substituted)

Sent to Committee on (Calendars) (Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of _____ yeas, _____ nays, _____ present, not voting.

Read third time (amended); finally passed (failed to pass) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

Returned to Senate.

Returned from House without amendment.

Returned from House with _____ amendments.

Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

CHIEF CLERK OF THE HOUSE

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays